

## Administrative Organization and Procedures, and Agency Rules of Practice

1. In addition to the provisions as set forth in [VSA, Title 7, Sections 101 through 107](#), all general information relative to general administration, stores and agencies, warehouse, and personnel may be obtained at the central office of the Liquor Control Board in Montpelier. All information relative to licensing and enforcement procedures is available at the central office in Montpelier.

2. Requests for information relative to the establishment of new state liquor stores or agencies shall be directed to the Commissioner of Liquor Control in Montpelier. Prospective licensees must make application for the following licenses at the town or city clerk's office where the premises are located:

- **First class license** (beer under 6% alcoholic content by volume and wine under 16% alcoholic content by volume) for cabarets, restaurants, hotels and clubs.
- **Second class license** (beer under 6% alcoholic content by volume and wine under 16% alcoholic content by volume) for stores.

Applications for the following licenses are available at the Liquor Control Board Office, State Office Building, Green Mountain Drive, Montpelier, Vermont.

- **Third class license** (spirituous liquor) for restaurants, hotels, clubs, and cabarets.
- **Caterer's permit**
- **Wholesale dealer's license** (beer under 6% alcoholic content by volume and wine under 16% alcoholic content by volume).
- **Certificate of Approval, Malt**
- **Certificate of Approval, Vinous**
- **Solicitor's Permit**
- **Bottler's license**
- **First class license for dining cars and boats**
- **Third class license for dining cars and boats**
- **Wholesale Alcohol permit**
- **Alcohol permit** (medicinal, mechanical, scientific or manufacturing purposes)
- **Manufacturer's or rectifier's license**

Requests for altar wine permits, etc. are submitted in letter form to the mailing address below. (Note: There is no fee required.)

*Vermont Department of Liquor Control  
Attention: Licensing Division  
13 Green Mountain Drive  
Montpelier, Vermont 05602*

**3. Definitions.** The definitions set forth in [3 VSA, Sec. 801](#) are hereby adopted and made applicable to these regulations.

**4. Formal and Informal Proceedings.** The following types of proceedings will be treated as formal proceedings:

- a. Revocation of licenses.
- b. Rule-making proceedings initiated by the Liquor Control Board under [Regulation No. 9\(b\)](#).

All other petitions, applications, submissions, requests, charges, etc., will be treated as informal proceedings.

**5. Appearances in Formal Proceedings.**

- a. A party to a formal proceeding before the Liquor Control Board may appear for himself or he may be represented by an attorney admitted to practice in the State of Vermont.
- b. Upon the filing of a petition, charge or other pleading initiating a formal proceeding before the Liquor Control Board, the name of the attorney or person who has signed such pleading will be entered on the agenda of the Liquor Control Board by the Enforcement Secretary. Except for appearances entered during a [hearing](#), all other appearances in formal proceedings by attorneys or persons appearing for themselves shall be by notice in writing filed with the Enforcement Secretary of the Liquor Control Board and served pursuant to [Regulation No. 6](#) herein.
- c. All notice given to or by an attorney of record for a party in a formal proceeding shall be considered in all respects as notice to or from the party represented by such attorney.
- d. When an attorney has entered his appearance for a party in a formal proceeding, he shall remain counsel for such party until he has been granted leave to withdraw by order of the Liquor Control Board.
- e. An attorney not residing or not admitted to practice in the State of Vermont may appear for a party if he is associated with a resident and admitted attorney who has entered his appearance for the same party.

**6. Filing and Service of Documents in Formal Proceedings.**

- a. The petition, charge or other pleading initiating a formal proceeding before the Liquor Control Board shall be signed by the petitioner or complainant or an officer thereof and shall be filed with the Enforcement Secretary in quadruplicate. Such pleadings shall be drawn so as to fully and completely

advise the Liquor Control Board and respondents, if any, as to the order of rule sought and the statutory authority and reasons therefor.

b. All formal pleadings addressed to the Liquor Control Board and other documents and papers filed in formal proceedings shall be on paper measuring eight and one-half by eleven inches. Filing with the Liquor Control Board shall be deemed to occur when a document or paper is received by the Enforcement Secretary of the Liquor Control Board except that filing shall be deemed to occur upon receipt by the Liquor Control Board when a document is submitted to the Liquor Control Board during a [hearing](#).

c. A petition for leave to intervene as a party must set forth the grounds of the proposed intervention, the position and interest of the petitioner in the proceeding, and whether petitioner's position is in support of or opposition to the order sought.

d. Every document or paper filed by any party subsequent to the initial pleading in a formal proceeding shall be served upon the attorneys of record for all other parties and upon all persons who have appeared for themselves.

e. In its discretion the Liquor Control Board may treat any written communication to it concerning a matter within its jurisdiction as a pleading initiating a formal proceeding.

f. Briefs and proposed findings of fact and conclusions of law, if any, shall be filed within ten days after hearing or, in the event that the hearing has been waived under [Regulation No. 7\(a\)](#), within ten days after the date originally set for the hearing.

## **7. Hearings.**

a. An oral hearing shall be held in every formal proceeding except: (1) in a formal rule-making proceeding if no request to be heard is submitted within five days of the date set for such hearing, in accordance with the provisions of [3 VSA Sec. 836\(4\)](#) and [3 VSA Sec. 840](#) in any other formal proceeding if all the parties to the proceeding file written waivers of opportunity to be heard.

b. Upon the filing of a pleading initiating a formal proceeding, or upon the initiation of such a proceeding by the Liquor Control Board on its own motion, the Liquor Control Board shall by order or otherwise assign a time and place for the hearing thereof and the Enforcement Secretary shall cause written notice of the hearing in the form as provided by [3 VSA Sec. 809\(b\)](#) and [Sec. 836\(c\)](#) and [839](#) to be served upon each party and, if required by statute, shall arrange for publication thereof.

c. Every party and counsel representing the Liquor Control Board, if any, shall have the right to participate fully in any hearing before the Liquor Control Board, and, in the case of rule-making proceedings, all interested persons shall also be permitted to participate in accordance with the terms of the notice of the proceeding.

d. The admissibility of evidence in all formal proceedings before the Liquor Control Board shall be determined under the criteria specified in [3 VSA Sec. 810\(1\)-\(4\)](#) which are attached hereto as [Appendix A](#).

e. The testimony of a hearing witness on direct examination may be offered in written form, either by having it read into the record or by offering it for incorporation in the record without reading, provided that a copy of such testimony shall be supplied to the Liquor Control Board, each attorney of record, and each party appearing for himself at a reasonable time in advance of the hearing at which testimony will be offered. Such testimony shall be subject to the same rules of admissibility and cross-examination as extemporaneous testimony.

#### **8. Petitions for Rule-making and Declaratory Rulings.**

a. Petitions for the adoption, amendment, or repeal of any rule will be entertained by the Liquor Control Board. Such petitions shall be filed with the Enforcement Secretary pursuant to Regulation No. 6 hereof. Such petitions will be considered and disposed of pursuant to the procedure specified in [3 VSA Sec. 836](#) and Sec. [806](#) and [Regulation No. 9\(b\)](#) hereof.

b. Petitions for declaratory rulings as to the applicability of any statutory provision or of any rule or order of the Liquor Control Board will be entertained by the Liquor Control Board in an informal manner. Such petitions shall be filed with the Enforcement Secretary and shall be so drawn as to fully and completely advise the Liquor Control Board the reasons why such a ruling is sought. The Liquor Control Board shall within thirty days after such petition has been filed advise the petitioner of its decision and the facts involved.

#### **9. Special Procedures for Certain Informal Proceedings.**

a. Any formal proceeding for revocation of a license, certificate, etc., shall be preceded by notice to the licensee of facts or conduct which warrant the intended action, and the licensee shall be given an opportunity informally to show compliance with all lawful requirements for the retention of the license prior to initiation of such formal proceeding under [Regulation No. 7](#) hereof.

b. Petitions for rule-making filed under [Regulation No. 8\(a\)](#) hereof will be considered informally and the Liquor Control Board shall within thirty days after the filing of such a petition either deny the petition in writing (stating its reasons for the denial) or shall initiate formal rule-making proceedings in accordance with [3 VSA Sec. 836](#) and [Regulation No. 7\(b\)](#) hereof.

#### **10. Enlargement of Rules.**

The Liquor Control Board may take a proceeding partially or entirely out of these rules when the law so permits and, in its opinion, the interest of the public so requires.

### **Appendix A**

#### **Rules of evidence, official notice.**

1. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence as applied in civil cases in the county courts of this State shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. Agencies shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form;
2. Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original;
3. A party may conduct cross-examinations required for a full and true disclosure of the facts;
4. Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The agency's experienced, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.